

ORDINANCE NO. 2013-11

AN ORDINANCE AMENDING TITLE 9, TRAFFIC, CHAPTER 9-01, TRAFFIC CODE, BY ADDING A NEW SECTION 9-01-001-0013, USE OF WIRELESS COMMUNICATION DEVICES WHILE DRIVING OR BICYCLING PROHIBITED; EXCEPTIONS; AND PROVIDING FOR PENALTIES

RECITALS:

WHEREAS, while there is ample research regarding the dangers of distracted driving generally, there is an increasing amount of evidence showing that text messaging is the most dangerous driver distraction of all; and

WHEREAS, a recent University of Utah study concluded that distracted driving caused by drivers using hand held cell phones reduce a driver's reaction time as much as having a blood alcohol concentration of .08, the legal limit in the State of Arizona; and

WHEREAS, in 2009 the National Safety Council called for a ban on the use of cell phones by drivers of motor vehicles; and

WHEREAS, in 2011, 3,311 people were killed in crashes involving a distracted driver, while an additional 387,000 people were injured in motor vehicle crashes involving a distracted driver; and

WHEREAS, according to the National Safety Council, on any given day in 2008 more than 800,000 vehicles were driven by someone using a hand held cell phone, and government and insurance research shows that it is the youngest and most inexperienced drivers, who are already in more than their share of road accidents and deaths, who use such devices while driving most; and

WHEREAS, in the month of June 2011, more than 169 billion text messages were sent, up 50% from 2009; and

WHEREAS, each year, 21 per cent of fatal car crashes involving teenagers between the ages of 16 and 19 were the result of cell phone use and this statistic is anticipated to grow by as much as 4 per cent each year; and

WHEREAS, in a 2009 survey, a Car and Driver Magazine study found that a legally intoxicated individual travelling at 70 mph braking suddenly traveled 4 feet beyond his baseline performance, while a sober individual reading an email traveled 36 feet beyond the baseline performance and 70 feet beyond while sending a text; and

WHEREAS, this Council finds that prohibiting text messaging while driving is necessary for the health and safety of Flagstaff citizens;

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS

FOLLOWS:

SECTION 1. Title 9, Traffic, Chapter 9-01, Traffic Code, is hereby amended by adding the following section:

9-01-001-0013. USE OF WIRELESS COMMUNICATION DEVICES WHILE DRIVING OR BICYCLING PROHIBITED; EXCEPTIONS.

A. As used in this section:

1. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. An electronic message includes, but is not limited to, a text based communication, a command or request to access an internet site, or other data that uses a commonly recognized electronic communication protocol.
2. "Wireless communication device" means any portable electronic device capable of transmitting or receiving data in the form of an electronic message or capable of accessing the internet, including but not limited to a wireless telephone, a text-messaging device, a personal digital assistant, or a personal computer.

B. No person shall operate a motor vehicle or a bicycle while using a wireless communication device to:

1. view, send, store or compose an electronic message;
2. send, read, create, play or interact with internet-based content.

For purposes of this section, "bicycle" shall have the same meaning as set forth in Flagstaff City Code Section 9-05-001-0002, Definitions.

C. This section shall not apply to:

1. a driver using a wireless communication device while the bicycle or motor vehicle is stopped, parked or standing and is removed from the flow of traffic, or is stopped due to the inoperability of the bicycle or vehicle; or
2. a driver using a wireless communication device to report a health or safety emergency; or
3. a driver using a factory-installed or portable navigation device; or
4. a driver using a wireless communication device in the course of the driver's duties while operating an emergency or a public safety vehicle.

D. A violation of this section shall be a civil traffic violation.

E. If a person violates this section and the person is not involved in a motor vehicle accident, the person shall be subject to a civil penalty of not less than one hundred dollars plus any other penalty assessments or surcharges as authorized by law.

F. If a person violates this section and the person is involved in a motor vehicle accident, the person shall be subject to a civil penalty of not less than two hundred fifty dollars plus any other penalty assessments or surcharges as authorized by law.

- G. If a person is cited for violating this section, the person is involved in a motor vehicle accident and a written report is required by law, the law enforcement personnel investigating the accident shall indicate on the written accident form the use of a wireless communication device at the time of the accident.

SECTION 2. Should any sentence, paragraph, section, subsection, division, subdivision, clause or phrase of this ordinance be adjudged to be unconstitutional, illegal or invalid, the same shall not affect the validity of the document as a whole, or any part or provision thereof other than that part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of this ordinance, or the Flagstaff City Code, as amended, as a whole.

SECTION 3. That the City Clerk be authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary; and that the City Clerk be authorized to make formatting changes needed for purposes of clarity and form, if required, to be consistent with Flagstaff City Code.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 2013.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY